IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY NINTH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE SRI JUSTICE B. SUDERSHAN REDDY

And

THE HON'BLE SRI JUSTICE K.C. BHANU

WRIT PETITION No.12277 of 1994

Between:

1. Chitoori Viswanatha Swamy s/o. Late Swamy

aged 29 years, Kakinada.

2. Andey Sampathkumar S/o. Subbarao,

aged 32 years, Kakinada.

3. Nooli Purnachandra Kumar S/o. Satyanandam,

aged 30 years, Kakinada.

4. Manda Brahmananda Phanisekhar S/o. Veerabhadra

Rao, aged 30 years, Kakinada.

5. Smt. Gokavarapu Sameera W/o. Gaga Timmaraju

aged 28 years, Kakinada.

6. Pulavarty Ayyanna S/o. Krishnanda Rao,

aged 35 years, Kakinada.

7. Penmetsa Krishnamraju S/o. Venkatapathiraju,

aged 36 years, Kakinada.

8. Mutha Bhagavan S/o. Veerabhadra Rao,

aged about 33 years, Kakinada.

9. Pulavarty Lakshmanaswamy S/o. Krishnanada Rao,

aged 35 years, Kakinada.

10. Chella Chandra Sekhar S/o. Ramarao,

aged 33 years, Kakinada.

..... PETITIONERs

And

The Mandal Revenue Officer,

I. Polavaram, East Godavari District.

.....RESPONDENT

Petition under Article 226 of the Constitution of India praying to issue a Writ or Order more particularly one in the nature of Writ of Mandamus declaring the action of the respondent initiating proceedings under Andhra Pradesh act IX of 1977 is illegal, contrary to law and without any jurisdiction. It is further directed (sic. prayed to direct) the respondent to drop the same.

Counsel for the Petitioners: M.V. Durga Prasad.

Counsel for the Respondent: G.P. for Revenue.

The Court made the following :

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THE HON'BLE SRI JUSTICE B. SUDERSHAN REDDY

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AND

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THE HON'BLE SRI JUSTICE K.C. BHANU

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W.P. No.12277 of 1994

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ORDER:(Per Hon'ble Sri Justice B. Sudershan Reddy)

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The petitioners have purchased different extents of land in Survey Nos.541-2A, 2B and 4, 546/1, 547/1, 542/3, 543, 543/2, 537/1, 537-2/A, 537-2/C, 553/1, 553/2, 533/1, 539/2, 537/2B, 547/2, 536/1, 539/3 of Bhairava Lanka village, hamlet of Guthimidevi, I Polavaram Mandal, East Godavari District, under different sale deeds. It is not necessary to notice further details in this regard.

The petitioners having purchased the said lands formed Prawn tanks in the lands with the available modern technology and started the prawn-culture. It is asserted that before purchasing the lands, the title of their vendors was verified by an Advocate of Kakinada who gave legal opinion and on the basis of which the State Bank of India, Kakinada, has sanctioned huge loans to the petitioners. It is also asserted that revenue records were verified and only after satisfying themselves that there were no legal impediments for purchasing the lands, necessary sale deeds were obtained from their vendors.

It is the case of the petitioners that after purchasing of the lands and developing the same by making substantial investments of their own and public institutions, all of a sudden, the respondent herein initiated proceedings under Andhra Pradesh Assigned Lands (Prohibition of Transfers) Act, 1977 (for short 'A.P. Act IX of 1977'). The petitioners were put on notice requiring their

explanation to show cause as to why they should not be evicted from the land in question. In the notice it is alleged that the petitioners were found to be in possession of the lands specified in the schedule to the notice in contravention of the provisions of
sub-section (2) of Section 3 of the A.P. Act IX of 1977. It is submitted that the question whether the lands were assigned or not is a jurisdictional fact that unless they are assigned lands no proceedings under the A.P. Act IX of 1977 can be initiated by the respondent. The case of the petitioners is that the respondent even without verifying the fact whether the lands purchased by them are assigned lands or not, set the law in motion requiring the petitioners to show cause in the manner referred to hereinabove.

It is under those circumstances, the present writ petition has been filed challenging the notice issued by the respondents as well as the constitutional validity of the Act IX of 1977.

It is totally unnecessary to go into the question relating to the constitutional validity of the provisions of the Act IX of 1977 in the facts and circumstances of this case. The petitioners are entitled to file their objections to the show cause notice in which they are entitled to raise their objections as may be available to them in law. It is needless to observe that unless the lands in question are assigned lands, the provisions of the Act IX of 1977 would not be applicable. The jurisdictional fact as to whether the lands in question are assigned lands or not is required to be gone into by the respondent herein for which purposes there shall be a full-fledged enquiry in which the petitioners are entitled to make their representations and produce such evidence as they may consider it necessary in support of their objections. Having regard to the nature of controversy, the petitioners are permitted to be represented by their duly instructed counsel. All the objections to be raised by the petitioners may have to be considered by the respondent before passing appropriate orders. Accordingly there shall be an order. The Writ Petition is accordingly disposed of without any order as to costs.

If the petitioners have not submitted their explanation so far, they are

permitted to file their explanation, which shall be received by the respondent for his consideration provided the same are filed within four weeks from today.

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B. SUDERSHAN REDDY, J

Date:29-09-2004

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K.C. BHANU, J

Note:

Furnish Copy of the order by 01-10-2004.

PV

To

1) The Mandal Revenue Officer,

I. Polavaram, East Godavari District.

2) Two C.Cs. to G.P. for Revenue, High Court of A.P.,

Hyderabad(OUT).

3) Two C.Ds.